

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----x
JEFFREY S. SEIGEL,
Plaintiff,

v.

STRUCTURE TONE ORGANIZATION,
PAVARINI NE CONSTRUCTION CO.,
ROBERT YARDIS, and MICHAEL
MELANOPHY,
Defendants.

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DATE FILED: 4/6/21

ORDER

19 CV 7307 (VB)

Pending before the Court is defendants' motion to compel the non-party Social Security Administration ("SSA") to comply with defendants' October 14, 2020 letter requesting the release of information, which was accompanied by an executed Form SSA-3288 "Consent for Release of Information," dated October 14, 2020 ("October 14 Letter Request"). (Doc. #82). On February 8, 2021, the Court ordered the SSA to show cause in writing why an Order should not be issued requiring it to comply with the October 14 Letter Request. (Doc. #83)

On April 5, 2021, the SSA responded to the Court's February 8, 2021, Order stating that it could not process the October 14 Letter Request because the form SSA-3288 accompanying the October 14 Letter Request is "internally conflicting." (Doc. #100 at 1). The SSA further stated it would provide the responsive information or records to the extent they are contained in its files upon receipt of a corrected form SSA-3288. Finally, the SSA stated that "it may take several months to provide the records or information due to the delays associated with the ongoing COVID-19 pandemic." (Id. at 2).

The Court finds that an order compelling the SSA to comply with defendants' October 14 Letter Request is premature. That the SSA is experiencing substantial delays in responding to third-party requests for information due to the COVID-19 pandemic is not equivalent to a failure

to comply with a subpoena. Moreover, as demonstrated by the SSA's April 5 letter, it is working to comply with third-party requests for information and intends to produce documents responsive to a corrected form SSA-3288 from Mr. Seigel in due course.

Accordingly, defendants' motion to compel (Doc. #82) is DENIED WITHOUT PREJUDICE to refiling if the SSA fails to comply with a corrected form SSA-3288.

Under the circumstances, the Court is inclined to further extend discovery deadlines if a request to do so is made. Should the parties require an extension of discovery deadlines they may request the same in compliance with Section 1.G of the undersigned's Individual Practices.

The Clerk is instructed to terminate the motion. (Doc. #82).

Dated: April 5, 2021
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge